

Exhibit B

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1 UNITED STATES DISTRICT COURT
2
3 NORTHERN DISTRICT OF CALIFORNIA
4
5 SAN FRANCISCO DIVISION

6 ORACLE AMERICA, INC.,

7 Plaintiff,

8 v.

9 GOOGLE INC.,

10 Defendant.

11 Case No. 3:10-cv-03561-WHA

12 CORRECTED DECLARATION OF TIM
13 LINDHOLM CONCERNING THE
14 AUGUST 6, 2010 EMAIL AND DRAFTS
15 THEREOF

16 Judge: Hon. Donna M. Ryu

17 Date Comp. Filed: October 27, 2010

18 Trial Date: October 31, 2011

1 I, Tim Lindholm, state:

2 1. I have been employed since 2005 by defendant Google Inc. ("Google") as a
 3 Software Engineer in the Systems Infrastructure group at Google. I have never worked on the
 4 Android team, and have had no role in the design, development and/or implementation of the
 5 Android platform.

6 2. I am the author of the August 6, 2010 email and drafts thereof that I understand
 7 are the subject of the pending motion to compel filed by Oracle America, Inc. ("Oracle"). I
 8 submit this Declaration to provide factual information regarding those documents—namely, that
 9 they constituted a communication to a Google attorney and were the result of work that I
 10 performed at the direction of Google attorneys.

11 3. Except where I have stated facts on information and belief, I have knowledge of
 12 the facts set forth herein, and if called to testify as a witness thereto could do so competently
 13 under oath.

14 4. In late July 2010, Google in-house attorney Ben Lee informed me that he had
 15 attended a meeting in which Oracle made patent infringement claims against Google. I
 16 understood that Oracle was threatening to sue Google over those claims.

17 5. Mr. Lee asked me to gather certain information related to Oracle's infringement
 18 claims. I understood that my work for Mr. Lee would assist Google's legal analysis of Oracle's
 19 claims.

20 6. On July 30, 2010, I was asked by Google General Counsel Kent Walker to attend
 21 a meeting, convened by him, where we discussed Oracle's infringement claims. The meeting
 22 took place at Google's offices in Mountain View, California. Mr. Walker and Mr. Lee attended
 23 the meeting, along with Google top management and several Google engineers.

24 7. At the meeting, Mr. Walker asked me to continue to work under Mr. Lee's
 25 direction, and to work with Google engineer Dan Grove, also under Mr. Lee's direction, to
 26 gather information for Google's lawyers and management to consider in evaluating technology
 27 issues related to Oracle's infringement claims.

28

1 8. On August 6, 2011, at 11:05 a.m., I sent an email reporting to Mr. Lee and to
 2 Andy Rubin, who was then a Google Vice President in charge of Android, concerning certain
 3 topics that Mr. Walker and Mr. Lee had asked me and Mr. Grove to investigate. On information
 4 and belief, I understand that two copies of this document were listed on Google's privilege log as
 5 entries 2551 and 5513 and that one copy of it has been submitted *in camera* to the Court.

6 9. At the end of preparing my email, but before sending the email, I added the words
 7 "Attorney Work Product" and "Google Confidential" at the top. I then filled in the "To:" and
 8 "Cc:" fields. In the "To:" field I placed the email addresses of in-house lawyer Mr. Lee and of
 9 Mr. Rubin. In the "Cc:" field I put the email addresses of myself and of Dan Grove.

10 10. On information and belief, as I was writing the email, Google's electronic-mail
 11 computer system automatically saved several unfinished drafts of the email. I understand that
 12 eight of these "auto-saves" were produced inadvertently to Oracle and that one auto-save is listed
 13 on Google's privilege log as entry 5512. On information and belief, I understand that copies of
 14 the auto-saves have been submitted *in camera* to the Court.

15 11. The auto-saves represent "snapshots" of the email that I ultimately sent, taken at
 16 nine different stages of preparation during the roughly five-minute period between 11:01 a.m.
 17 and 11:05 a.m.

18 12. The eight inadvertently produced auto-saves have empty "To:" lines because
 19 adding the addresses of Mr. Lee and Mr. Rubin was one of the last things that I did. Those eight
 20 auto-saves likewise do not show the words "Attorney Work Product" or "Google Confidential"
 21 because adding those words was one of the last things that I did. The ninth (and latest in time)
 22 auto-save includes the phrases "Attorney Work Product" and "Google Confidential" in the body,
 23 and only the character "a" in the "To" field.

24 13. I understand that Oracle's motion seeks production of a document bearing
 25 production number GOOGLE-12-00039656. I have been shown that document and can confirm
 26 that it is not an auto-save of the email in question and is completely unrelated to any version of
 27 that email.

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1 14. In sum, the documents sought by Oracle are really all one document, shown in
2 different stages of preparation over the course of about five minutes. The documents constitute a
3 communication to Google in-house attorney Ben Lee (among others), reporting investigations
4 and analyses that Mr. Grove and I conducted at the request of Google General Counsel Kent
5 Walker, under the supervision of Mr. Lee, and in anticipation of Oracle's threatened lawsuit.

6 I declare under penalty of perjury that the foregoing is true and correct. Executed on
7 August 17th, 2011.

By:  TIM LINDHOLM